

## **REMARKS**

### **Status of the Claims**

Claims 1, 3-6, and 16-23 are pending in this application.

Claims 1, 3-6, and 16-19 are rejected.

Claims 20-23 are allowed.

### **Rejection of Claims 1, 3-6, and 16-19 Under 35 U.S.C. § 103**

Claims 1, 3-6, and 16-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,981,349 to Tamiya et al. (hereafter "Tamiya '349") in view of Japanese Patent No. 03-224838 to Shibuya et al. (hereafter "Shibuya '838") or U.S. Patent No. 6,204,753 to Schenk et al. (hereafter "Schenk '753").

The Applicant respectfully traverses the 35 U.S.C. § 103(a) rejection of claims 1, 3-6, and 16-19. Claims 2, and 7-15 have been canceled, without prejudice. Therefore, the Applicant's remarks will be directed to remaining claims 1, 3-6, and 16-19.

Establishing a *prima facie* case of obviousness requires that the proposed combination of references teach or render obvious **all** the elements of the rejected claims. Rejected claims 1, 3-6, and 16-19 include the elements of a counter for counting the number of revolutions of the electric motor. *See rejected independent claims 1 and 16, from which claims 3-6 and 17-19 depend.* These elements are not taught or rendered obvious by the proposed combination of Tamiya '349 in view of Shibuya '838 or Schenk '753 because Tamiya '349 teaches away from the present invention.

More specifically, Tamiya '349 teaches a tilting movement control mechanism 60 for automatically de-energizing the motor M when the rearview mirror assembly 10 reaches the rearwardly tilted position R from the normal position N, or reaches the normal position N from the rearwardly tilted position R. *Col. 6, Lines 50-55.* The control mechanism 60 also includes a pair of cam switches 67,68, each of the cam switches 67,68 having a pair of contacts 67c,67d, and 68c,68d. *Col. 7, Lines 8-15 and Lines 25-29.* When the mirror housing H is stopped during its tilting movement, i.e., the gear 53 is stopped due to contact by an obstacle, the motor M remains energized but does not rotate its output shaft. *Col. 6, Lines 12-15.* The contacts 67c,67d, and 68c,68d, are used for de-energizing the motor M when the rearview mirror assembly 10 is moved from a normal position to a rearwardly tilted position R, or a forwardly tilted position F, after the mirror assembly 10 contacts an obstacle, such as the stopper 55. *Col. 7, Lines 31-49.*

**Tamiya '349 teaches away** from the present invention **because the purpose of the tilting movement control mechanism 60 as set forth in Tamiya '349 is for preventing the motor M for being subjected to a high load, and is not used for controlling the position of the mirror.** Tamiya '349 does not teach, disclose, or suggest a counter for counting the number of revolutions of the motor M. The cam switches 67,68 of Tamiya '349 do not detect the position of the mirror or the number of revolutions of the motor, the switches 67,68 simply de-energize the motor if the motor is still attempting to rotate its output shaft and the mirror assembly 10 has hit an obstacle. Therefore, Tamiya '349 teaches away from using a counter for counting the number of revolutions of the electric motor, as set forth in claims 1 and 16 of the present invention, and cannot be properly combined with Shibuya '838 or Schenk '753 to render the present invention obvious.

Additionally, Schenk '753 and Shibuya '838 have teachings that are contradictory to Tamiya '349. Schenk '753 teaches a distance detection or proximity sensor 3, which detects the distance or approach of an object, for example a wall 8 and generates the corresponding detection signal 4, as integrated in side view mirror housing 1. *Col. 3, Lines 2-5*. Schenk '753 also teaches or renders obvious that if control device 7 has detected a collision hazard of a side view mirror housing 1 with object 8, it sends an actuating signal 5 to actuating mechanism 2 to fold side view housing 1. *Col. 3, Lines 33-36*. Shibuya '838 teaches a side mirror is turned about a turning axis fixed to a body with a turning means 501. *See Shibuya '838 abstract*. Also, an obstacle detection means 502 detects the existence or non-existence of an obstacle within a predetermined range of the side mirror. *See Shibuya '838 abstract*. Neither Shibuya '838 or Schenk '753 can be combined with Tamiya '349 to render the present invention obvious because Schenk '753 and Shibuya '838 teach the use of a proximity sensor or an obstacle detection means, which is contradictory to the teachings of Tamiya '349. Both Schenk '753 and Shibuya '838 teach the use of tracking the position of a mirror. These references are not properly combinable with Tamiya '349 because Tamiya '349 teaches away from a counter for counting the number of revolutions of an electronic motor, as set forth in claims 1 and 16 of the present application.

Thus, the combination of Tamiya '349 in view of Schenk '753 is not properly combinable to render the present invention obvious because even if combined, these references together fall short of teaching a counter for counting the number of revolutions of electric motor, as set forth in claims 1 and 16 of the present invention.

In view of the foregoing, Applicant respectfully submits that claim 1 defines over and patentably distinguishes the present application from the art cited by the Examiner, and respectfully requests withdrawal of the rejection. Likewise, claims 3-6, which either

directly or indirectly depend from claim 1, and claims 17-19, which either directly or indirectly depend from claim 16, further define the invention and define over the art cited by the Examiner. Thus, Applicant respectfully requests withdrawal of the rejection.

### **CONCLUSION**

It is respectfully submitted that in view of the above amendments and remarks the claims 1, 3-6, and 16-23, as amended, are patentably distinguishable because the cited patents, whether taken alone or in combination, do not teach, suggest or render obvious, the present invention. Therefore, Applicant submits that the pending claims are properly allowable, which allowance is respectfully requested.

The Examiner is invited to telephone the Applicant's undersigned attorney at (248) 364-4300 if any unresolved matters remain.

Respectfully submitted,

WARN PARTNERS, P.C.  
Attorneys for Applicant(s)

By: 

Philip R. Warn  
Reg. No. 32775

P.O. Box 70098  
Rochester Hills, MI 48307  
(248) 364-4300

Dated: 

PRW:RPB:slm